

INDIANA PUBLIC DEFENDER COMMISSION

MINUTES

April 18, 2001

At 3:15 p.m., Chairman Lefstein determined that a quorum was not present and called for discussion of items on the agenda. Present were Commission members, Susan Carpenter, Les Duvall, Monica Foster, and Bettye Lou Jerrel. Member Rebecca McClure joined the discussion shortly thereafter, creating a quorum. Members Sen. Richard Bray, Sen. Timothy Lanane, Rep. Ralph M. Foley and Rep. Vernon Smith were unable to attend due to the General Assembly being in session. Also present were Larry Landis and Tom Carusillo.

1. The minutes from the January 31, 2001 meeting were reviewed and approved.
2. Staff reported on activities since the last meeting, including involvement in the budget process, meetings with legislators and the editorial board of the *Indianapolis Star*. Meetings with county officials and participation in the Supreme Court's district meetings were also reviewed. It also was noted that due to a delay in the filing of a claim from Marion County, suspended noncapital claims would not be prorated as earlier anticipated.
3. Larry Landis reported on his efforts regarding the budget. Chairman Lefstein led a discussion of what other efforts might be needed. The Commission concluded that a letter should be drafted for distribution to key legislators thanking them for the appropriation that has been proposed, seeking at least no cut of the appropriation, and explaining the need for increased funding. Member Bettye Low Jerrel indicated she would speak to Sen. Bob Meeks regarding the position of the Commission.
4. The Commission approved reimbursements in capital cases as follows:

COUNTY	DEFENDANT	TOTAL
Floyd	Ingle	\$14,526.94
Johnson	Overstreet	\$4,306.93
Knox	Whipps	\$6,356.16
TOTAL		\$25,190.03

5. The Commission approved reimbursements in non-capital cases as follows:

COUNTY	PERIOD COVERED	TOTAL EXPEND.	ADJUS'T	ADJUS'D EXPEND.	40% REIMB.
BENTON	01/16/01-03/30/01	\$11,109.40	\$424.80	\$10,684.60	\$4,273.84
BLACKFORD	01/01/01-02/28/01	\$8,368.30	\$0.00	\$8,368.30	\$3,347.32
DECATUR	01/01/01-03/31/01	\$22,500.00	\$9,000.00	\$13,500.00	\$5,400.00
FAYETTE	10/10/00-12/27/00	\$36,190.78	\$0.00	\$36,190.78	\$14,476.31
FLOYD	01/01/01-03/31/01	\$61,562.35	\$0.00	\$61,562.35	\$24,624.94
FULTON	01/01/01-03/31/01	\$17,608.59	\$4,930.40	\$12,678.19	\$5,071.28
GREENE	01/01/01-03/31/01	\$40,979.12	\$110.00	\$40,869.12	\$16,347.65
HANCOCK	01/01/01-03/31/01	\$62,043.00	\$0.00	\$62,043.00	\$24,817.20
HENRY	01/01/01-03/31/01	\$32,531.95	\$0.00	\$32,531.95	\$13,012.78
JENNINGS	01/01/01-03/31/01	\$16,106.21	\$0.00	\$16,106.21	\$6,442.48
KNOX	01/05/01-03/23/01	\$88,350.10	\$7,459.16	\$80,890.94	\$32,356.38
LAKE	01/01/01-03/31/01	\$555,245.92	\$111.89	\$555,134.03	\$222,053.61
LAPORTE	01/01/01-03/31/01	\$88,340.99	\$0.00	\$88,340.99	\$35,336.40
MARION		\$0.00		\$0.00	\$0.00
MIAMI	01/01/01-03/31/01	\$56,552.32	\$13,911.87	\$42,640.45	\$17,056.18
MONROE	01/01/01-03/31/01	\$104,045.00	\$23,931.00	\$80,114.00	\$32,045.60
MONTGOMERY	07/01/00-12/31/00	\$62,922.41	\$0.00	\$62,922.41	\$25,168.96
PARKE	01/01/01-03/31/01	\$16,992.40	\$0.00	\$16,992.40	\$6,796.96
PULASKI	01/01/01-03/31/01	\$22,136.69	\$3,819.91	\$18,316.78	\$7,326.71
SCOTT	11/01/00-03/31/01	\$70,407.45	\$32,362.20	\$38,045.25	\$15,218.10
SHELBY	01/01/01-03/20/01	\$45,983.77	\$0.00	\$45,983.77	\$18,393.51
SPENCER	01/02/01-03/19/01	\$17,325.83	\$0.00	\$17,325.83	\$6,930.33
STEUBEN	02/01/01-03-31/01	\$21,170.36	\$6,647.49	\$14,522.87	\$5,809.15
SULLIVAN	01/01/01-03/21/01	\$14,517.12	\$0.00	\$14,517.12	\$5,806.85
VERMILLION	01/01/01-03/31/01	\$12,267.23	\$0.00	\$12,267.23	\$4,906.89
VIGO	01/01/01-03/31/01	\$171,546.68	\$43,710.09	\$127,836.59	\$51,134.64
WARREN	01/01/01-03/31/01	\$5,026.58	\$593.75	\$4,432.83	\$1,773.13
WASHINGTON	01/01/01-03/31/01	\$25,474.69	\$2,955.06	\$22,519.63	\$9,007.85
TOTAL		\$1,656,803.97	\$146,418.81	\$1,510,385.16	\$614,935.05

Since, these reimbursements exceeded the balance in the Fund, the Commission suspended reimbursements as required by I.C. 33-9-14-6.

6. The Commission next considered Lake County's request to compensate attorneys in conflict cases on a flat-fee per case basis. The Commission determined that Lake County's comprehensive plan called for an hourly compensation scheme and therefore rejected the flat-fee basis.

7. The Commission then discussed Lake County's request regarding the number of attorneys to be appointed in *State v. Britt*. Britt involves six separate death penalty

cases. The Commission concluded that requiring the appointment of six different sets of death qualified attorneys was not necessary to meet Commission requirements. However, only having two attorneys handling the cases also seemed ill advised. The Commission felt at least four attorneys should be representing Britt in these six cases.

8. The Commission next discussed SB 104. Larry Landis reported that he had spoken to Rep. Dvorak about the amendments to the bill. He reported that the intention was not to add additional duties or restrictions to the Commission. Mr. Landis felt the matter would be corrected in conference committee, with the funding placed in the county supplemental public defender fund and not the Public Defense Fund. Mr. Landis will monitor the situation for the Commission.
9. The Commission then took up review of comprehensive plans from Allen, Carroll, Noble and Rush Counties. The Comprehensive Plan and Ordinance from Allen County were rejected. It was determined that the appointment of the local board did not substantially comply with the requirements of the Commission in that the members were appointed by only one of the judges with felony or juvenile jurisdiction. In addition, the ordinance provided that the members served at the pleasure of the judge. The Commission felt this did not achieve necessary independence. Other problems with Allen County's proposal were reviewed as set out in staff's memorandum to Allen County. The plans from Carroll, Noble, as amended, and Rush Counties were approved.
10. Finally, the Commission considered a concern raised by Monica Foster. She has seen several instances where counties have not complied with Criminal Rule 24. Either caseloads have been excessive or only one attorney has been appointed. Because claims in all of these cases have not been presented to the Commission, these matters have not come before the Commission. In those cases where claims have been presented and found to not be in compliance the Commission has disapproved reimbursement. The Commission decided to send a letter to Chief Justice Shepard noting this concern so the Court could act, if it so chose, to remind counties of the necessity of complying with Criminal Rule 24.
11. The next meeting of the Commission is set for Wednesday, August 29, 2001, at 3:00 p.m. in **South Tower, Room 1071**, (formerly Room 1088) 115 West Washington Street, National City Center, Indianapolis, Indiana.

Norman Lefstein, Chairman

Date